

REMARKS

In the Action, claims 1, 2 and 4-21, 23 and 25-41 were pending, and upon entry of the present paper, these claims remain pending. Claims 1, 2, 4-21, 23, 25, 26 and 28-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over an alleged combination of Shore (U.S. Patent Pub. No. 2003/0149662) and McGarry et al. (U.S. Patent No. 6,038,491); claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over an alleged three-way combination of Shore, McGarry et al. and Ling (U.S. Publication No. 2002/0111907); and claims 40 and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over an alleged three-way combination of Shore, McGarry et al. and Turtiainen (U.S. Patent No. 6,430,407).

Applicants respectfully traverse these grounds of rejection.

The Applicability of Ling

Applicants note that one of the applied references, Ling, bears a filing date of August 15, 2002, and claims priority to a number of applications. The present application claims priority to provisional application filed on April 25, 2000, and only two of the Ling priority documents (Provisional Application No. 60/178,239, filed Jan. 26, 2000; and CIP parent application 09/553,695, filed Apr. 21, 2000) were filed before Applicants' claimed priority date. The undersigned has reviewed these two priority documents, and does not see the reference to QPass that the Action cites from Ling in the Action. Accordingly, Applicants submit that Ling cannot properly serve as prior art for the alleged combination, and that the rejection of claim 27 should be reconsidered and withdrawn.

The Claims

In rejecting the majority of the claims, the Office Action continues to primarily rely on Shore, and concedes that Shore “fails to explicitly disclose a program to take control of the wireless mobile device’s menuing, interaction and display functions, and taking control of the wireless mobile device when the wireless mobile device enters a range of the product device.” For convenience, claim 1 recites “transmitting from the vendor device via the wireless transmission channel port to a compatible wireless transmission channel port on the wireless mobile device a program to take control of the wireless mobile device’s menuing, interaction and display functions.” To address this deficiency in Shore, the Office Action combines Shore with McGarry et al.

McGarry et al. relates to a vending machine that uses a cellular network to report the machine’s status (e.g., how much money it has collected, what items are out of stock, etc.) to a central management system 8, so the owner of the machine knows when the machine needs to be restocked, serviced, have money collected, etc. See, e.g., col. 5, lines 19-33 and col. 6, lines 38-42. The McGarry et al. vending machine uses a telemetry device 22 to use different cellular networks when making its reports, so that costs may be minimized (e.g., if different cellular networks charge different rates depending on time of day). See, e.g., col. 4, lines 12-20. The Office Action refers to McGarry et al.’s discussion of downloading software segments to the vending machine. This discussion may be found, for example, at col. 11, line 48 to col. 12, line 54. In these portions, McGarry et al. refers to replacing or updating the software used in the vending machines by having the machine download the software from the management system 8.

The method recited in independent claim 1 involves a vending machine and a mobile device, with a step of “transmitting from the vendor device via the wireless transmission channel

port to a compatible wireless transmission channel port on the wireless mobile device a program to take control of the wireless mobile device's menuing, interaction and display functions." In the Office Action's proposed combination, what is transmitted from the vendor device to take control of a wireless mobile device's listed functions? The status reports are sent to the management system 8, and the downloading of a software update simply receives the new program. The McGarry et al. vending machine makes no such transmission. Indeed, McGarry et al. does not address a mobile device's display menuing, interaction and display functions.

The Office Action notes that McGarry et al.'s vending machine could be an ATM. That doesn't change the fact that the McGarry et al. vending machine fails to make the recited transmission. It simply means the McGarry et al. ATM can receive a software update, or send a report to a management system 8, all still without involving a mobile device. The addition of McGarry et al. to Shore merely would make the Shore vending machines able to report their status to the management system, and to receive vending machine (or ATM) updates from the management system. It still would not teach or suggest the recited method from claim 1.

For at least these reasons, claim 1 distinguishes over the art of record, and is in condition for allowance. Claims 2-5 depend from claim 1, and are allowable for at least the same reasons as claim 1, and further in view of the various advantageous and novel features recited therein.

Additionally, independent claims 6, 7, 29, 33 and 34 also recite the transmission of "a program to take control of the wireless mobile device's menuing, interaction and display functions," independent claims 12 and 38 recite "means for taking control of the wireless mobile device's menuing, interaction and display functions," and independent claim 13 recites "the third code mechanism takes control of the wireless mobile device's menuing, interaction

and display functions.” These claims are similarly allowable. Claims 8-11, 14-15, 30-32, 35-37 and 39-41 each depend from one of these independent claims, and are allowable for at least the same reasons as their base claim, and further in view of the various advantageous and novel features recited therein. For example, dependent claim 39 recites “[t]he method of claim 1, wherein said program causes a display on said wireless mobile device to display a list of products available for purchase from said vendor device and prices of said products, said method further comprising the steps of: receiving, on said wireless mobile device, a user selection of one of said listed products providing said selected product to said user; and obtaining payment for said selected product using a micropayment system.” The previous Office Action conceded that Shore does not disclose the recited program, but the current Office Action does not address this feature at all. In reviewing McGarry et al., there is no such additional step.

Conclusion

For at least the reasons set forth above, Applicants respectfully submit that pending claims 1-2 and 4-21, 23 and 25-41 distinguish over the art of record, and are in condition for allowance. Should the Examiner wish to have further discussion and/or amendment to place the

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application in condition for allowance, the Examiner is invited to telephone the Applicants' undersigned representative at the number appearing below.

Respectfully submitted,



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